

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

CIVIL REVISION APPLICATION No 804 of 1999

with

CIVIL REVISION APPLICATIONS No 805 and 806 of 1999

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the Judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

ANJANA CONSTRUCTION CO.
VERSUS
CHIRAG BUILDERS

Appearance: (In all the matters)
MR RN SHAH for the Petitioner
MR MB GANDHI for the Respondent

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 28/03/2000

C.A.V. JUDGMENT

1. These three revision applications arise from three different summary suits though between the same parties. In three suits, different sums have been claimed by the plaintiff- respondent. In the summary suits, conditional leave to defend has been granted to the defendant - petitioner. Hence, these revision applications.

2. In the revision application No. 804 of 1999, the suit has been filed for the recovery of sum of Rs.488028/-. Learned court below granted leave to defend the suit to the defendant - petitioner on condition of depositing Rs.2 lacs.

3. In the revision application No. 805 of 1999, the suit has been filed for recovery of sum of Rs.46,856/=. Learned trial court granted conditional leave to defend the suit to the defendant - petitioner on depositing of Rs.20,000/=.

4. In the revision application No. 806 of 1999, the suit has been filed for recovery of sum of Rs.84,276/= and leave to defend has been granted by the court below on condition of depositing Rs.30,000/=.

5. Learned counsel for the petitioner contended that the defendant raised triable issues in the matter and leave to defend should have been granted unconditionally. It has next been contended that the learned trial court has not passed a reasoned order. Defence raised even has not been referred what to say to consider the same.

6. On the other hand, the learned counsel for the plaintiff- respondent submitted that the claim of the petitioner made in the suits is an admitted claim. In support of his contention, he referred to the affidavits filed in these revision applications. It has next been contended that the learned trial court has taken a very lenient view in the matter and as against the claim of the suits, only on nominal deposit of amount, leave to defend has been granted to the petitioner. The counsel for the plaintiff - respondent submits that this court may not interfere in the matter.

7. Having given my thoughtful consideration to the submissions made by the learned counsel for the parties, I do not find any merits in any of the revision applications. In the trial court, the plaintiff respondent produced voluminous documents and more

particularly the copy of income tax return, statement of accounts produced before the Income tax department and list of creditors. These documents have been produced on the notice of the plaintiff- respondent to the defendant - petitioner. After this notice, the copies of these documents have been given to the plaintiff. From the documents, I find that the plaintiff respondent has been shown to be the creditor by the defendant petitioner. Learned counsel for the petitioner has failed to show why these documents could not have been relied upon at this stage. When the defendant petitioner has shown the plaintiff - respondent to be his creditor in the statement of accounts produced before the Income tax department and those documents are on record and the same were not controverted or disputed by the defendant - petitioner, the learned trial court has not committed any illegality much less a material irregularity in exercise of its jurisdiction in granting conditional leave to defend the suits to the defendant petitioner. I find sufficient merits in the contention of the learned counsel for the plaintiff- respondent that the learned trial court has taken very lenient view in the matter and as against the claim made in the suits, on deposit of small amounts by the defendant petitioner, leave to defend has been granted to it.

8. In the result, all these three revision applications fail and the same are dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. However, the petitioner in these matters is granted one month's time for depositing of the amount in the court below.

zgs/-